

**TOWN OF FREDERICK, COLORADO  
ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE TOWN OF FREDERICK, COLORADO, AMENDING  
CERTAIN SECTIONS OF THE TOWN OF FREDERICK LAND USE CODE  
AND MUNICIPAL CODE THROUGH THE ADOPTION BY REFERENCE OF  
THE MEDICAL MARIJUANA OPERATIONS REVISIONS; AND REPEALING  
ALL ORDINANCES IN CONFLICT THEREWITH.**

**WHEREAS**, on December 8, 2009, the Board of Trustees for the Town of Frederick, Colorado adopted Resolution No. [...], which declared a 180-day moratorium on the acceptance of any applications for Town license, permit or other approval related to the establishment or operation of “medical marijuana dispensaries,” as that term is defined therein; and

**WHEREAS**, the moratorium established in Resolution No. [...] began on December 9, 2009, and terminated on June 6, 2010; and

**WHEREAS**, on May 25, 2010, the Board adopted Resolution No. [...], which imposed a new 180-day moratorium similar Resolution No. [...] from May 25, 2010, to through November 21, 2010; and

**WHEREAS**, on May 11, 2010, the Colorado General Assembly adopted House Bill (HB) 10-1284 and it was signed into law by Governor Ritter; and

**WHEREAS**, HB 10-1284 authorizes a municipality to prohibit within its boundaries the licensing and operation of medical marijuana centers, optional premises cultivation operations, and medical marijuana-infused products manufacturers, as such facilities are described under the Colorado Medical Marijuana Code adopted in HB 10-1284 (“MMC”); and

**WHEREAS**, in addition, HB 10-1284 clarifies Colorado law regarding the scope and extent of Amendment 20 to the Colorado Constitution, which added Article XVIII, Section 14, and at the same time establishes in the MMC a licensing and regulatory scheme for the retail sale, distribution, cultivation and dispensing of medical marijuana through licensed medical marijuana centers, optional premises cultivation operations and medical marijuana-infused manufacturers; and

**WHEREAS**, C.R.S. § 12-43.3-310(1) specifically authorizes a municipality “to prohibit the operation of medical marijuana centers, optional premises cultivation operations, and medical marijuana-infused products manufacturers...based on local government zoning, health, safety, and public welfare laws for the distribution of medical marijuana that are more restrictive than [the MMC]”; and

**WHEREAS**, C.R.S. § 12-43.3-308(1)(c) provides that the state and local licensing authorities shall not receive or act upon a new application pursuant to the MMC “for a location in an area where the cultivation, manufacture, and sale of medical marijuana as contemplated is not permitted under the applicable zoning laws of the municipality”; and

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**WHEREAS**, C.R.S. § 12-43.3-103(2)(a) also authorizes the Board to adopt prior to July 1, 2011, an ordinance “prohibiting the cultivation or sale of medical marijuana” within the Town by all persons except patients and primary caregivers registered under C.R.S. § 25-1.5-106; and

**WHEREAS**, C.R.S. § 12-43.3-106 specifically authorizes the Board by a majority vote to prohibit within the Town the operation of medical marijuana centers, optional premises cultivation operations, and medical marijuana-infused products manufacturers, which the Board has decided to do through amendments to the Town of Frederick Land Use Code, 2004 (“Land Use Code”) and Town of Frederick Municipal Code, 1992 (“Municipal Code”); and

**WHEREAS**, the Board has carefully considered the provisions of House Bill 10- 1284, Article XVIII, Section 14 of the Colorado Constitution, and the adverse impacts of commercial medical marijuana operations within the Town on the health, safety and welfare of the Town’s inhabitants, and has determined, as an exercise of its local land use authority and in accordance with its other general police powers for the protection of the public’s health, safety and welfare, that medical marijuana centers, optional premises cultivation operations, and medical marijuana-infused products manufacturers should not be located within the Town’s corporate limits nor should the cultivation or sale of medical marijuana be allowed in the Town except by registered patients and primary caregivers; and

**WHEREAS**, the Board has further considered the protections afforded to patients and primary caregivers by Article XVIII, Section 14 of the Colorado Constitution, and by C.R.S. § 25-1.5-106, that are required to be registered with the State though may not need to obtain a state license under the MMC, and desires to affirm those protections in this Ordinance; and

**WHEREAS**, in doing so, however, the Board also wishes to place reasonable business operations and zoning limitations on primary caregivers as “home occupations” under the Frederick Municipal Code to prevent negative impacts on surrounding residential properties.

**WHEREAS**, Title 31, Article 16, Section 200 *et seq.* of the Colorado Revised Statutes provides that any primary code may be directly adopted by reference upon notice and a public hearing, wherein identification of the nature and purpose of such code, as well as the manner in which it may be obtained, are provided; thereafter, such code may be amended in the same manner or amended by an ordinance that sets forth the entire text of said amendment; and

**WHEREAS**, it is the intent of the Board of Trustees to amend the Land Use Code and Municipal Code in order to make those Codes consistent with Town practices, repeal inapplicable and remnant provisions, and to clarify and improve public understanding of permitted land uses and business operations within the Town; and

**WHEREAS**, the Frederick Planning Commission considered and approved that portion of the Medical Marijuana Revisions relating to the Land Use Code at a public meeting held on October 19, 2010, adopting Planning Commission Resolution \_\_\_\_\_.

**BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF  
FREDERICK, COLORADO, AS FOLLOWS:**

**Section 1.** That the Board of Trustees for the Town of Frederick, Colorado hereby finds and determines that its authority to enact this Ordinance is granted to it and the Town in: §12- 43.3-101 *et seq.*, C.R.S.; Article XVIII, Section 14 of the Colorado Constitution; the Local Government Land Use Control and Enabling Act of 1974 in Article 20 of Title 29 of the Colorado Revised Statutes; Part 3 of Article 23 of Title 31 of the Colorado Revised Statutes; C.R.S. § 31-15-103; C.R.S. § 31-15-401; and C.R.S. § 31-15-501.

**Section 2.** Section 3.4, Land Use Code, including Tables 3-1 (Table of Permitted Uses) and 3-2, is hereby amended and readopted in revised form.

**Section 3.** Chapter 6, Municipal Code, is hereby amended by adoption of a new Article IV (Medical Marijuana) including Sections 6-80 through 6-109.

**Section 4.** The Medical Marijuana Revisions to the Land Use Code and Municipal Code, as has been provided in their entirety to the Board, pursuant to C.R.S. § 31-16-107, and as available in the office of the Town Clerk and at the principal offices of the Town of Frederick, located at 401 Locust Ave, Frederick, Colorado, is hereby adopted by reference and the Land Use Code and Municipal Code are deemed hereby amended consistent with such adoption.

**Section 5. Effective date.** This ordinance shall be published and become effective as provided by law.

**Section 6. Severability.** If any part, section, subsection, sentence, clause, or phrase of this ordinance is for any reason held invalid, such invalidity shall not affect the validity of the remaining sections of the ordinance. The Town hereby declares that it would have passed the ordinance including each part, section, subsection, sentence, clause or phrase thereof, irrespective of the fact that one or more part, sections, subsections, sentences, clauses, or phrases be declared invalid.

**Section 7. Repealer.** All ordinances or resolutions and motions of the Board of Trustees of the Town of Frederick or parts thereof in conflict with this ordinance are, to the extent of such conflict, hereby superseded and repealed, provided that such repealer shall not repeal the repealer clauses of such ordinance, resolution or motion, nor revive any ordinance, resolution, or motion thereby.

**INTRODUCED, READ, PASSED, ADOPTED AND ORDERED PUBLISHED  
THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2010.**

**ATTEST:**

**TOWN OF FREDERICK**

By \_\_\_\_\_  
Nanette S. Fornof, Town Clerk

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Eric E. Doering, Mayor